

EXECUTIVE SUMMARY

PURPOSE

To assess and to find ways to improve oversight of State child welfare programs.

BACKGROUND

In 1980, Congress passed The Adoption Assistance and Child Welfare Act (P.L. 96-272) in order to "lessen the emphasis on foster care placements and to encourage greater efforts to find permanent homes for children." The law signaled a new direction in child welfare and highlighted an awakened Federal interest in how States manage their child welfare programs.

The Department of Health and Human Services (HHS) funds State child welfare services through three significant mechanisms, all of which are under the Social Security Act. The largest proportion of monies comes from Title IV-E, with lesser amounts from Title XX and Title IV-B (see appendix A for details on the programs). The HHS's Administration for Children and Families (ACF) oversees State child welfare services using the following formal mechanisms: Title IV-E reviews, Section 427 reviews, program reviews, and State plans (see appendix B for details on oversight mechanisms). The content of both Title IV-E and Section 427 reviews is determined by P.L. 96-272.

Members of Congress, HHS officials, the General Accounting Office, directors of State child welfare agencies, and representatives of the Child Welfare League of America and the American Public Welfare Association are among those who have voiced concerns about these processes. In particular, they have been concerned that the reviews elevate process issues over quality of services.

On August 10, 1993, the President signed into law the Omnibus Budget Reconciliation Act of 1993. This law increased funding for Title IV-B to encourage State efforts to support and preserve families. The original version of the bill proposed major alterations to the oversight process. While the law, as passed, left most of the oversight processes unchanged, the fact that Congress considered reshaping these requirements indicates a high level of interest and concern about oversight issues.

Given this level of interest and activity, changes to the oversight system are likely. This report presents information which we hope will be helpful to decision makers as they consider improvements to oversight of child welfare programs. In this report, we evaluate the scope of and approach to Federal oversight activities (which includes the statutorily mandated features of oversight), as well as the conduct of these activities.

This report is focused on a range of Federal oversight activities, including technical assistance, planning, and review of programs. The focus is primarily on ACF oversight

activities, although HHS leadership and Congress have significant roles in determining these activities. Audits and reviews conducted by agencies other than ACF, such as the Office of Audit Services in the OIG or the General Accounting Office (GAO), were not within the scope of this study. Furthermore, we did not reevaluate specific findings or disallowances from any reviews of State child welfare programs. We intend this report to establish the context and provide general perspective for officials to make improvements in the oversight system. Our Office of Audit Services has issued a draft report which focuses on specific improvements in the eligibility process.

Finally, because ACF itself has expressed concerns about the oversight processes and has initiated several examinations of them, we are certain ACF is familiar with many of the shortcomings we identify in this report. Our focus is not primarily on assessing how good a job ACF is doing in conducting oversight, but on assisting ACF in its deliberations on improving the processes.

We collected data from three primary sources. First, we reviewed the results of the most recent Section 427 reviews, Title IV-E reviews, and program reviews conducted in each State in the last five years. Second, we interviewed State child welfare officials in 13 States. Finally, we interviewed officials in each of the 10 ACF regional offices and had numerous discussions with officials in the central office of ACF.

ACCOMPLISHMENTS

Federal oversight of State child welfare programs has served some important purposes, particularly in establishing new directions for child welfare in the early 1980s.

Since the early 1980s, Federal oversight of State child welfare programs has been focused on assuring States' adherence to P.L. 96-272. Several State and Federal officials we interviewed spoke about the positive new directions in State programs resulting from P.L. 96-272 and Federal reviews focused on the law. In addition, oversight has helped prevent States from illegally receiving Federal funds for ineligible activities or on behalf of ineligible families. There is little question that the oversight mechanisms in use since the early 1980s have served important purposes.

SHORTCOMINGS

Despite the accomplishments stated above, there are indications that the oversight mechanisms and framework make it difficult for the Federal government to provide adequate stewardship of Federal funds or leadership to States for the 1990s and beyond. Evidence of these indications follows. There are shortcomings both in the overall approach to oversight as well as in the individual processes. Many of the shortcomings stem directly from the requirements set out by Federal statute, while others are matters of administrative discretion not strictly determined by statute.

The overall approach to Federal oversight has not addressed many of the vital issues States face in administering child welfare programs.

- Federal oversight has not recently prompted States to improve and address new and complex problems in child welfare.
- Federal oversight reviews have not identified severe problems with several States' child welfare programs that were specified in successful lawsuits against the States.
- Section 427 and Title IV-E reviews have been focused on the written record of case work, not on how well children are served.
- Disallowances have often been based on issues that child welfare agencies do not control.
- The ACF has provided limited technical assistance to States; State officials say that ACF does not provide them with new information when it identifies program strengths and weaknesses and solutions to problems.

Problems with the conduct of Federal review and planning activities have hampered their efficiency and effectiveness.

- Federal review activities have been resource intensive for State agencies and ACF regional offices.
- Review reports have not been issued to States in a timely manner. This has diminished their capacity to improve child welfare programs.
- States expressed confusion about the Federal review procedures resulting from poor communication by Federal officials.
- There has been inadequate Federal/State interaction on child welfare oversight issues.
- Officials from ACF and States question whether Federal review and planning mechanisms have been adequately meeting their stated objectives.

RECOMMENDATIONS

Oversight of State child welfare programs continues to be of intense interest to the Congress, HHS, the States, and others. The ACF, itself, is engaged in efforts to improve its oversight. We hope this report can provide information to help guide decisions on the course of oversight. It is important for ACF to pursue two principles in its oversight of State child welfare programs. The ACF must continue to assure the integrity of States' use of Federal funds. It is equally necessary for ACF to work in

partnership with States to make programs work well. Our recommendations are focused at helping ACF and the States pursue both these principles.

We present a wide range of options for each recommendation. Some options are not consistent with others, while other options fit together very well. Our goal is to provide as many practical ideas as possible.

In many cases, the current oversight approaches and processes are set by Federal statute. Some of the options we present, if implemented, may therefore require legislative changes (these are denoted by a δ). Other options could be enacted at the discretion of ACF without Congressional approval.

In order to improve its oversight of State child welfare programs, the ACF should:

Provide States with more and better feedback on issues related to program performance.

Implementation options

- Performance Indicators Develop performance indicators, collect State-by-State information on them, and disseminate this information to all States on a periodic basis.
- Outcome-Based Reviews ^{δ} Replace existing review mechanisms with new review processes that relate resources to outcomes.

Find new ways to work with States to make program improvements and address problems.

Implementation options

- Corrective Action Plans ^{δ} Rather than automatically sanctioning States financially in response to adverse review findings, use, when appropriate (i.e., at the discretion of the Secretary), the results of reviews to develop corrective action plans, with agreed-upon time frames, to improve programs and enforce legal requirements. Waive or reduce disallowances, when appropriate (at the discretion of the Secretary), if States comply with plans and time frames.
- Accreditation ^{δ} Using new or existing accreditation bodies, make accreditation of programs a Title IV-B State plan requirement. Oversee the accreditation bodies to assure that they are fair, reasonable, and pursuing continuous improvement.

^{δ} May require new legislation.

- Quality Assurance Require States to have quality assurance programs that look at the quality of case work.

Improve current planning and review processes to make them more effective.

Implementation options

- Title IV-B Planning Emphasis Put less emphasis on compliance reviews (such as the Section 427 reviews) to assure protections are in place in States and, instead, use a revitalized joint planning process to provide strategic direction that will lead States to effective child welfare programs.
- Substantive Title IV-E Reviews^δ Use the Title IV-E review process to assure States are substantially complying with foster care case planning and review and judicial determination requirements. Limit disallowances to instances of substantial non-compliance.
- Section 427 Incentives^δ Alter the Section 427 review process to provide better incentives for improvement. Rather than using full compliance with process requirements as the standard for 427 funding, score States based on quality of case planning and reviews once they have passed a triennial review and make the size of the grants in the coming three years dependent on the scores.
- Focus Program Reviews Change the approach of program reviews to use them only when indicators of problems are raised through other reporting or review mechanisms. Develop strategies to address those problems only.
- One State Plan^δ Require States to submit one coordinated State plan for all child welfare services.

Make more efficient use of resources required to conduct reviews.

Implementation options

- Title IV-E Reviews - Automation Automate the Title IV-E review process.
- Title IV-E Reviews - Self-Certification^δ Allow States to certify that their payments are eligible under Title IV-E.
- Title IV-E Reviews - Limited Scope^δ Limit the Title IV-E reviews to income eligibility and payment allowability issues.

^δMay require new legislation.

- Section 427 Reviews^δ Discontinue Section 427 reviews or sharply reduce the use of them.
- Discontinue Planning and Program Reviews^δ Use other technical assistance efforts instead of Title IV-B joint planning and program reviews.
- Limit Background Sections Shorten introductions to reports, which often focus on information about which the States are aware.

Provide States with more useful, comprehensive, and expert advice on management, program, and technical issues.

Implementation options

- Existing Mechanisms Focus more resources on joint planning, program reviews, and the training of regional officials to conduct technical assistance.
- Non-governmental Contracts Use funds to contract with non-governmental organizations to provide general technical assistance to States.
- Problem Areas Using a combination of ACF officials and outside contractors, provide intensive technical assistance to States or regions of States that have extreme problems.

More effectively share information with and among States.

Implementation options

- Effective Practices Using oversight mechanisms, identify effective practices. Produce regular (at least semi-annual) reports that outline these practices and list contacts in the States. Actively share reports and State plans that outline effective practices.
- On-Line Service Develop a simple, electronic, on-line service for States to share information about strategies, innovations, and other issues.

Improve and clarify communication with States about program standards.

Implementation options

- Reasonable Efforts Collect information on States' definitions of "reasonable efforts" and identify model definitions.

^δMay require new legislation.

- Central Office Hotline Establish a central office hotline to respond promptly to regional office and State inquiries about review policy, standards, and interpretation of regulations and statements. Follow up inquiries with written confirmations that are shared with all States and regional offices.
- Program Regulations Publish comprehensive program regulations for Section 427 and Title IV-E that would be subject to notice and comment.

Improve the timeliness of reporting on results of reviews.

Implementation options

- Mandatory Turnaround Require reports to be issued within a set time after a review is complete.
- Performance Reporting Develop goals for turnaround of reports. Then collect and disseminate information on the timeliness of reporting.
- Streamline Decision-making Clarify who in ACF has the authority to decide on policy matters and final reports.
- Limit Scope of Reviews⁶ Reduce the complexity of the reports by narrowing the scope of the reviews.

COMMENTS ON OUR DRAFT REPORT

We shared our draft report with and solicited comments from the Administration for Children and Families (ACF), the Assistant Secretary for Planning and Evaluation (ASPE), the Assistant Secretary for Management and Budget (ASMB), and the Assistant Secretary for Legislation. We received written comments from ACF and ASPE. We reproduce these comments and provide detailed responses to each in appendix C.

We are pleased that both ACF and ASPE concurred with our recommendations and found the report useful. We made changes in our report based on the technical comments we received.

⁶May require new legislation.